

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

NICOLE MICHELLE M.,

Plaintiff,

**5:22-cv-634
(GLS/DEP)**

v.

**COMMISSIONER OF SOCIAL
SECURITY,**

Defendant.

SUMMARY ORDER

Pending is plaintiff Nicole Michelle M.'s objection to a Report and Recommendation (R&R), (Dkt. No. 22), which recommends, among other things, that defendant Commissioner of Social Security's decision be affirmed, (Dkt. No. 21). The objection, which faults the R&R's conclusion that the administrative law judge (ALJ) correctly evaluated the opinion evidence, "centers on the fact that the ALJ failed to properly evaluate the opinions of Drs. [M. Marlene] Ryan and [Gerald] Koocher." (Dkt. No. 22 at 1.) The specifics of Nicole's arguments now are identical to those presented in her memorandum of law in support of her motion for judgment

on the pleadings.¹ (*Compare* Dkt. No. 12 at 12-20, *with* Dkt. No. 22 at 1-5.)

The objection, which repeats the substance of the only argument made in Nicole's underlying brief, (Dkt. No. 12 at 12-20), and was directly considered by Magistrate Judge Peebles, is general and triggers review for clear error only. *See Almonte v. N.Y. State Div. of Parole*, No. Civ. 904CV484, 2006 WL 149049, at *4 (N.D.N.Y. Jan. 18, 2006).

After carefully considering the R&R and finding no clear error therein, it is adopted in its entirety.

Accordingly, it is hereby

ORDERED that the Report and Recommendation (Dkt. No. 21) is **ADOPTED** in its entirety; and it is further

ORDERED that the Commissioner's motion for judgment on the pleadings (Dkt. No. 14) is **GRANTED**; and it is further

ORDERED that Nicole's motion for judgment on the pleadings (Dkt. No. 12) is **DENIED**; and it is further

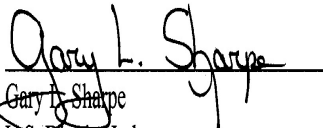
¹ To the extent that the objection contends that Magistrate Judge Peebles "cherry-pick[ed] evidence," or "found" or "contends" one thing or another with respect to the disability determination, (Dkt. No. 22 at 2, 3, 4), it misses the mark. Upon review of an appeal of a denial of Social Security benefits, the district court's role is to review the determination and decide if it is supported by substantial evidence and free from legal error; not to find, contend, or cherry pick anything. The objection, apparently in an effort to specifically attack the R&R and invoke de novo review, attempts to impute the alleged mistakes by the ALJ to the Magistrate Judge, which reflects a misunderstanding of the court's role in the litigation.

ORDERED that the decision of the Commissioner is **AFFIRMED** and the complaint (Dkt. No. 1) is **DISMISSED**; and it is further

ORDERED that the Clerk close this case and provide a copy of this Summary Order to the parties in accordance with the Local Rules of Practice.

IT IS SO ORDERED.

September 20, 2023
Albany, New York



Gary L. Sharpe
U.S. District Judge